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SUBJECT: ACTION REQUEST: SIXTH COMMITTEE DRAFT RESOLUTION
ON THE REPORT OF UNCITRAL'S 40TH SESSION

¶1. ACTION REQUEST: USUN requests instructions from the Department to join consensus on the Sixth Committee's draft resolution on the Report of the United Nations Commission on International Trade Law on the work of its fortieth session (agenda item 81) contained in para 3, or substantially similar text. The texts of all draft resolutions must be tabled before the Sixth Committee by November 9. USUN expects the Sixth Committee to take action on draft resolutions shortly thereafter. USUN point of contact for this resolution is James Donovan, (212) 415-4300, DonovanJB@state.gov. END ACTION REQUEST.

¶2. BACKGROUND/COMMENT: Negotiations on this resolution included many revisions of operative paragraph 8 (OP8). France could not accept any reference to the use of nongovernmental organizations in OP8, nor could it accept the inclusion of the Commission's practice of reaching a decision by consensus without a formal vote. Canada, Japan and the U.S. argued to include a reference to decision making by consensus. Ultimately, Austria, as coordinator, and to achieve consensus on the resolution, deleted the two items from the text and added a footnote to OP8 that refers to prior resolutions that contain the items. END BACKGROUND/COMMENT.

¶3. Text of draft resolution on the Report of the United Nations Commission on International Trade Law on the work of its fortieth session:

BEGIN TEXT:

Sixty-second session
Sixth Committee
Agenda item 81

Draft Resolution
Report of the United Nations Commission on International
Trade Law on the work of its fortieth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law, to the elimination of discrimination in international trade and, thereby, to

peace, stability and the well-being of all peoples,

Having considered the report of the Commission on the work of the first part of its fortieth session,

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other

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international organs and organizations, including regional organizations, active in the field of international trade law,

¶1. Takes note with appreciation of the report of the United Nations Commission on International Trade Law on the work of the first part of its fortieth session;

¶2. Commends the Commission for its work on the preparation of a legislative guide on secured transactions, which has been designed to facilitate secured financing, thus promoting increased access to low-cost credit and enhancing national and international trade, and notes with satisfaction that the Commission expects to complete that work in the nearest

future;

¶3. Welcomes the progress made by the Commission in its work on a revision of its Model Law on Procurement of Goods, Construction and Services and of the UNCITRAL arbitration Rules, on the preparation of a draft instrument on transport law and on future developments in insolvency law, and endorses the decision of the Commission to undertake further work in the area of security interests;

¶4. Endorses the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law, as well as promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

¶5. Reaffirms the importance, in particular for developing countries, of the work of the Commission concerned with technical assistance and cooperation in the field of international trade law reform and development, and in this connection:

(a) Welcomes the initiatives of the Commission towards expanding, through its secretariat, its technical assistance and cooperation programme and, in that respect, encourages the Secretary-General to seek partnerships with State and non-State actors to increase awareness about the work of the Commission and facilitate the effective implementation of legal standards resulting from its work;

(b) Expresses its appreciation to the Commission for carrying out technical assistance and cooperation activities,

including at the country, sub-regional and regional levels, and for providing assistance with legislative drafting in the field of international trade law;

(c) Expresses its appreciation to the Governments whose contributions enabled the technical assistance and cooperation activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in carrying out technical

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assistance activities, in particular in developing countries;

(d) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission, in the light of the relevance and importance of the work and programmes of the Commission for the promotion of the rule of law at the national and international levels, as well as for the implementation of the United Nations development agenda, including the achievement of the Millennium Development Goals;

¶16. Takes note with regret that, since the thirty-sixth session of the Commission, no contributions have been made to the trust fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General, 4 stresses the need for contributions to the trust fund in order to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in the field of international trade law in those countries to facilitate the development of international trade and the promotion of foreign investment, and reiterates its appeal to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund;

¶17. Decides, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the sixty-second session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

¶18. Welcomes the decision by the Commission to hold a comprehensive review of its working methods, in particular in light of the recent increase in membership of the Commission and the number of topics being dealt with by the Commission, which should ensure the high quality of the work of the Commission and international acceptability of its instruments, and in this regard recalls its previous resolutions related to this matter;

¶19. Recalls its resolutions on partnerships between the United Nations and non-State actors, in particular the private sector, and its resolutions in which it encouraged the Commission to further explore different approaches to the use of partnerships with non-State actors in the implementation of its mandate, in particular in the area of technical assistance, in accordance with the applicable principles and guidelines and in cooperation and coordination with other relevant offices of the Secretariat, including the Global

Compact Office;

¶10. Reiterates its request to the Secretary-General, in conformity with the General Assembly resolutions on documentation-related matters, which, in particular, emphasize that any reduction in the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and work of the Commission in implementing page limits with respect to the documentation of the Commission;

¶11. Requests the Secretary-General to continue providing summary records of the meetings of the Commission relating to the formulation of normative texts;

¶12. Recalls its resolution approving the establishment of the Yearbook of the United Nations Commission on International Trade Law, with the aim of making the work of the Commission more widely known and readily available, expresses its concern regarding the timeliness of the publication of the Yearbook, and requests the Secretary-General to explore options to facilitate the timely

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publication of the Yearbook;

¶13. Stresses the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

¶14. Welcomes the preparation of digests of case law relating to the texts of the Commission, such as a digest of case law relating to the United Nations Convention on Contracts for the International Sale of Goods and a digest of case law relating to the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law, with the aim of assisting in dissemination of information on those texts and promoting their use, enactment and uniform interpretation;

¶15. Notes with satisfaction that the Congress Modern Law for Global Commerce was held in Vienna from 9 to 12 July 2007 in the context of the Commissions fortieth session, which reviewed the results of the past work of the Commission as well as related work of other organizations active in the field of international trade law, assessed current work programmes and considered topics and areas for future work, and, acknowledging the importance of the results of the Congress for the coordination and promotion of activities aimed at the modernization and harmonization of international trade law, requests the Secretary-General to ensure the publication of the proceedings of the Congress to the extent permitted by available resources;

¶16. Recalls its resolutions affirming the importance of high-quality, user-friendly and cost-effective United Nations websites and the need for their multilingual development, maintenance and enrichment, commends the restructured website of the Commission in the six official languages of the United Nations, and welcomes the continuous efforts of the Commission to maintain and improve its website in accordance with the applicable guidelines.

END TEXT.
Khalilzad